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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/635,714 | 08/05/2003 | Kun-Chen Chen | T-1246 | 1996 |
| 802 | 7590 | 11/23/2005 | EXAMINER | |
| DELLETT & WALTERS P. O. BOX 82788 PORTLAND, OR 97282-0788 | | | POLLICOFF, STEVEN B | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3728 | |

DATE MAILED: 11/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--|---------------------------------------|--|
| Office Action Summary | Application No. 10/635,714 | Applicant(s) CHEN, KUN-CHEN | |
| | Examiner Steven B. Pollicoff | Art Unit 3728 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 8/05/03.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to since a positioning device is not labeled, it is unclear as to what structure(s) the positioning device refers. For clarity, the above element should be numbered in the figures and referenced with its respective numerical designation in the specification. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The disclosure is objected to because of the following informalities: Page 1 Line 18 of the specification reads "difficult. a tool with..." The "A" should replace the lower case "a."

3. Page 2 Lines 6-9 of the specification read "...Accordingly, the tools can be kept from escaping from the cavities with a blocking effect provided by the at least one baffle plate a positioning device does not need to be formed..." The sentence does not complete a thought and is incomplete as structured.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1 and 3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. In Claim 1, "a top" in line 3 and "a bottom" in line 5 are vague and indefinite elements. It is unclear as to what "a top" and "a bottom" is referring to, either a surface, an area, or an orientation. Specify what structure is encompassed by such language. The examiner interprets the above language for purposes of examination as descriptive for orientation of an open tool case laying on a flat surface. Additionally, it is unclear whether a recess has "an inner surface" and "a bottom" or whether the top has "an inner surface" and "a bottom" or alternatively that a body has "an inner surface" and "a

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bottom.” The examiner interprets the claim as the body having an inner surface and a bottom.

6. As to Claim 3, it is unclear whether a recess has “a bottom,” a cover has “a bottom,” or whether a top has “a bottom.” The examiner interprets the claim as the cover having a bottom.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 1-3, and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller (U.S. Pat. No. 3,758,977) in view of Pangerc et al., (U.S. Pat. No. 6,698,609), Horiuchi (U.S. Pat. No. 4,694,940), and Weisburn et al., (U.S. Pat. No. 5,558,225).

8. As to Claim 1, Miller discloses a tool case comprising a body (see Miller Fig. 1, reference number 11a) with a top (see Fig. 4, area between reference number 12 and

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13) and having a recess (see Fig. 4 generally) defined in the top and having an inner surface (see Fig. 4, reference number 24) and a bottom (see Fig. 4, outside border of reference number 11a), a handle (see Fig. 3, reference number 32a) formed on the body, at least one first baffle (see Fig. 4, reference number 20) pivotally attached to the body with a pivot pin (see Fig. 4, reference number 21), selectively received in the recess and capable of covering cavities in the body to hold tools in the cavities where each of the at least one first baffle has a board (see Fig. 4, reference number 20) with a thickness pivotally attached to the body, a positioning device (see Fig. 4, reference number 30) mounted in the inner surface of the cavity to hold the at least one first baffle closed relative to the body.

9. Miller does not disclose a tool case with multiple cavities defined in the bottom of the recess to hold tools. However, Pangerc discloses a tool case with multiple cavities (see Pangerc Fig. 1 generally) defined in the bottom of the recess to hold a variety of tools. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the tool box of Miller to include multiple cavities in the bottom of the recess as taught by Pangerc for the purpose of supporting tools in place and keeping them organized until the case is opened (see Pangerc Column 1, Lines 24-26).

10. Miller does not disclose a baffle board with a resilient connector formed on the board along the pivot pin and having a thickness smaller than that of the board.

However, Horiuchi discloses a baffle board (see Horiuchi, Fig. 1A, reference number 3) with a resilient connector (see Fig 1A, reference number 11) formed on the board along

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the pivot pin and having a thickness smaller than that of the board (see Horiuchi Column 2, Lines 26-29). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the tool box of Miller to include a resilient connector on the baffle board as taught by Horiuchi for the purpose of allowing the hinged portion of the baffle to articulate, that is to allow movement for proper positioning of the baffle (see Horiuchi Column 2, Lines 16-23).

11. Miller does not disclose a tool case where a hole is defined through the baffle board. However, Weisburn discloses a baffle board (see Weisburn Fig. 1, reference number 9) with a hole (Fig. 1, reference number 14) defined through the board for easy opening and grasping. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the tool box of Miller to include a hole in the baffle board as taught by Weisburn for the purpose of enabling a user to grasp the board and move it from the closed position to an open position (see Weisburn Column 3, Lines 14-16).

12. As to Claim 2, Miller discloses a cover (see Miller Fig. 1, reference number 11b) pivotally attached (see Fig. 4, reference number 13) to the body at an edge away from the handle.

13. As to Claim 3, Miller discloses a cover having a top, a recess defined in the top, a bottom, at least one second baffle pivotally attached to the cover with a pivot pin, selectively received in the recess in the cover, each of the at least one second baffle having a board with a thickness, and a positioning device mounted in the inner surface

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of the cavity to hold the at least one second baffle relative to the cover (see rejection argument for Claim 1; see also Miller Column 2, Lines 47-49 and 61-63).

14. Milller does not disclose multiple cavities in the cover, that the at least one second baffle covers the cavities in the cover, a resilient connector formed on the board along the pivot pin and having a thickness smaller than that of the board, and a hole defined through the board. However, as argued above for the Claim 1 rejection, Pangerc discloses a tool case with multiple cavities (see Pangerc Fig. 1 generally) defined in the bottom of the recess to hold tools, Horiuchi discloses a baffle board (see Horiuchi, Fig. 1A, reference number 3) with a resilient connector (see Fig 1A, reference number 11) formed on the board along the pivot pin and having a thickness smaller than that of the board (see Horiuchi Column 2, Lines 26-29), and Weisburn discloses a baffle board (see Wesiburn Fig. 1, reference number 9) with a hole (Fig. 1, reference number 14) defined through the board. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the tool box of Miller to include the above mentioned elements for the same purposes as disclosed in the Claim 1 rejection.

15. As to Claim 5, Miller does not disclose that the body baffles are made of a transparent material. However, Pangerc discloses that the body baffles are made of a transparent material so that the tools and accessories can be seen when the baffle is closed on the body or cover (see Pangerc Column 2, Line 54). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the tool box of Miller to include transparent body baffles as taught by Pangerc for the

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purpose of displaying the multiple tools in the case and communicating the features and benefits of the container (see Pangerc Column 1, Lines 24-27).

16. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Miller '977 in view of Pangerc '609, Horiuchi '940, and Weisburn '225 as applied to Claim 1 above and further in view of Foltz (U.S. Pat. No. 3,148,811).

17. As to Claim 4, Miller as modified above discloses all of the limitations of the claims except for that the body has two body baffles pivotally attached to the body which correspond respectively to two groups of cavities in the body. However, Foltz discloses that the body (see Foltz Fig. 3, reference number 10) has two body baffles (see Fig. 3, reference numbers 32 and 34) pivotally attached (see Column 3, Lines 8-14) to the body which correspond respectively to two groups of cavities in the body (see Fig. 3 generally). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the baffles of Miller to include two body baffles pivotally attached to the body of the case as taught by Foltz for the purpose of exposing one group of cavities at a time or for providing additional work surface to place and work with the tools (see Column 3, Lines 15-22).

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Listed are tool cases analogous to Applicant's instant invention: Sullivan (U.S. Pat. No. 3,926,308), Davis et al., (U.S. Pat. No. 3,310,905), and Chen (U.S. Pat. No. 4,821,751).

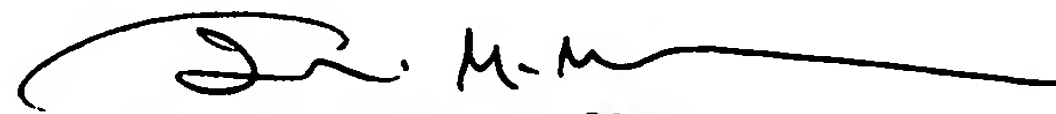
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19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven B. Pollicoff whose telephone number is (571)272-7818. The examiner can normally be reached on M-F: 7:30A.M.-4:00P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571)272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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JILA M. MOHANDESI
PRIMARY EXAMINER